

# **APPENDIX II**

## **CIVIL RIGHTS OBLIGATION**

## **SERVICE DELIVERY CIVIL RIGHTS OBLIGATION**

Title VI of the Civil Rights Acts of 1964 and 1991, Section 504 of the Rehabilitation Act of 1973, Title IX of the Educational Amendments of 1972, the Age Discrimination Act of 1975 and Title II of the Americans with Disabilities Act of 1990 have similar requirements for recipients and subrecipients of federal funding who provided program services. Basically, these laws require taking affirmative actions to ensure equal opportunity in service delivery and overcome the continuing effects of prior discrimination against people of color, women, people with disabilities and people associated with people with disabilities.

Affirmative actions to ensure equal opportunity are also authorized to overcome the effects of conditions which resulted in limited participation of people in programs based on their race, color, national origin, religion, age, gender or disability. These characteristics are considered protected from discrimination, and people of color, women, people over 40, people with disabilities and people associated with people with disabilities are considered to be members of protected groups under the laws.

The United States Department of Justice is responsible for coordinating the development and publication of uniform standards, procedures and regulations which apply to recipients and subrecipients of federal funding. The US Department of Health and Human Services and other federal departments which provide funding for services to clients have responsibility for issuing regulations and standards to implement civil rights laws. Regional Offices of Civil Rights operated by the federal departments provide technical assistance to state agencies such as the Wisconsin Department of Workforce Development (DWD) and other recipients of federal funding to ensure uniform implementation of the civil rights regulations. These regional offices develop agreements of mutual responsibilities and formally investigate any complaints received from clients of federally funded services.

The Wisconsin DWD has primary responsibility for overseeing civil rights compliance of all subrecipients of federal funding, including county agencies, departments or boards (hereafter referred to as "the county" or "counties") and other providers of health and human services. This oversight includes the provision of technical assistance, the establishment of civil rights standards and responsibilities for their implementation, requiring assurance of non-discrimination, formally investigating civil rights complaints from clients of federally funded services and monitoring provider agency compliance.

All subrecipient W-2 agencies in turn, have responsibility to follow the uniform standards established by DWD, which includes submitting an Affirmative Action and Civil Rights Equal Opportunity in service delivery Action Plan every two years, posting the provisions of the civil rights policy, the name of an Equal Opportunity Coordinator and an internal complaint process, taking constructive steps to ensure civil rights compliance of any agencies to which they subcontract services with federal funds received from the Department, and requiring an affirmative action and equal opportunity in service delivery plan from their own subrecipients of federal and state funding.

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Under the laws mentioned in preceding paragraphs, regulations and requirements vary, but there are some common requirements which DWD and its subrecipients must meet in order to come into compliance. Written assurances of compliance with all civil rights laws for all programs must be provided by DWD to the federal funding agency, by DWD subrecipients to DWD and by contractors of the subrecipients to the subrecipients. These written assurances are incorporated in the contracts between DWD and the W-2 agencies and all their other subrecipients, and in purchase of service agreements between counties and other providers and their own subrecipients.

These assurances include statements of non-discrimination against all protected groups, of intent to provide services in the most integrated setting, and of intent to post civil rights laws, discrimination complaints procedures and means of contacting the equal opportunity coordinator. Assurance must be provided that information on civil rights laws and complaint procedures will be included in all program information, and that reasonable steps will be taken to provide program information in languages understood by the population served and in formats accessible to people with disabilities.

The DWD and its subrecipients are required to establish policies and procedures to ensure equal access to services. These include the use of bilingual staff or interpreters or procedures for acquiring translation and interpretation services when needed, the provision of reasonable accommodations or aids for people with disabilities, including access to telecommunication through telecommunication devices for the deaf, and physical accessibility to facilities where programs or activities are offered. All staff are expected to receive training on their responsibilities under civil rights laws, and sensitivity training regarding the needs and concerns of all protected groups. In addition, program and outreach material may not perpetuate stereotypes about characteristics of protected group members.

The following pages are a summary of Civil rights standards that all W-2 agency staff must meet in delivering services to applicants and W-2 participants. Questions on how to carry out these standards can be directed to the local (W-2) Equal Opportunity Coordinator or the DES Equal Opportunity Officer.

## **W-2 CIVIL RIGHTS RESPONSIBILITIES**

The W-2 agency assures that services are equally available to everyone by:

- a. Providing equal access to all programs, services or activities, including but not limited to eligibility, treatment, staff assignments, outreach, intake, diagnosis, assessment, evaluation, research, days and hours of service, facilities assignments, communication of information and referrals to other services.
- b. Assuring physical access to the facilities by allowing persons with functional limitations caused by impairments of sight, hearing, coordination or perception, or persons with semi-ambulatory or non-ambulatory disabilities to enter, leave, circulate within, use public toilet facilities and elevators.
- c. Providing translators and/or sign language interpreters to assist applicants and clients with hearing impairments or with limited ability to read, speak or understand English.
- d. Providing literature, posting information and audio-visual materials in languages(s) understood by clients, and in formats which are understandable to persons with visual or hearing impairments.
- e. Providing readers for persons with visual impairments.
- f. Providing special assistance for persons with developmental or learning disabilities.
- g. Providing services regardless of whether the applicant or participant provides demographic information or protected status characteristics. Informing applicants or participants that information regarding protected status is requested as a DHHS requirement, and that this information will not be used to discriminate against applicant or participant.
- h. Ensuring that members of protected classes have equal opportunity to participate on planning and advisory boards on local levels through notification of membership opportunities.
- i. Allocating funds in a non-discriminatory manner.
- j. Providing equal opportunity for applicants to become vendors, subgrantees, and contractors. Using non-discriminatory factors in determining awards, sizes of grants, contracts, projects, and the quality, quantity, range of benefits provided there under proportionate to the number of such members in the service area.
- k. Establishing service areas for the purpose of protected class integration.
- l. Treating protected class members with full courtesy and respect in all personal, oral, written and other forms of communication and contact.

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- m. Providing culturally competent qualified staff and specialized services so as to maximize use and completion of the program by the protected class.
- n. Ensuring that sanctions and terminations are applied in a culturally sensitive, non-discriminatory manner without regard to protected status.

### **DISCRIMINATION COMPLAINT/GRIEVANCE PROCEDURE**

- a. The complaint resolution procedure, including the name, address and phone number of the complaint investigator, is publicly posted in language(s) understood by our clients, and is in a format or formats accessible to persons with visual or hearing impairments.
- b. There is confidential written documentation of all investigations conducted.
- c. All participants in complaint investigations are protected from retaliation.
- d. Complaints are responded to in writing within 30 calendar days with appropriate appeal rights. Corrective actions are taken when evidence of discrimination has been found.
- e. Translators, interpreters and/or readers, who meet the communications needs of our clients, are provided by the organization during the complaint process.
- f. Clients are permitted to have representatives of their choice during the complaint process.
- g. **Client** complainants are made aware of other avenues of redress, including the right to appeal to the Division of Economic Support, or to the appropriate federal Office for Civil Rights (depending on the source of federal funding).
- h. **Employee** complainants are made aware of other avenues of redress, including the Department of Workforce Development, the Equal Employment Opportunity Commission, or the appropriate federal agency (depending on the source of federal funds).
- i. Agency staff will assist complainants during the complaint process if necessary.
- j. Complainants are informed that the complaint must be filed within 180 days from the alleged discriminatory act. Filing times may be extended if deemed necessary.

## **MODEL GUIDELINES FOR LOCAL AGENCY DEVELOPMENT OF POLICIES AND PROCEDURES FOR ENSURING RIGHTS AND RESPONSIBILITIES UNDER SERVICE DELIVERY ANTI-DISCRIMINATION AND ANTI-HARASSMENT LAWS**

### **INTRODUCTION**

Non-discrimination and a harassment-free environment in service delivery is required under the federal Civil Rights Act of 1964, Title VI, the Americans with Disabilities Act of 1990, Titles II, III and IV, the Rehabilitation Act of 1973 Section 504 as amended, the Education Amendments of 1972, Title IX and the Age Discrimination Act of 1975. These requirements apply to the following programs: Wisconsin Works, food stamps, Child Support, Medicaid, child care and any other Division of Economic Support (DES) funded program.

The following guidelines are being provided in order to give local agencies guidance in developing internal policies and procedures to ensure that both participants and local agency staff understand their rights and responsibilities under all the civil rights laws. For further information, please refer to the DWD Civil Rights Compliance (CRC) Standards and Resource Manual, and the DES Civil Rights Compliance Training materials. You may also find information on the federal civil rights laws through the Internet at the Department of Justice website ([www.usdoj.gov/crt/grants\\_statutes](http://www.usdoj.gov/crt/grants_statutes)). State laws, which cover non-discrimination in service delivery, include the Public Accommodations and Amusement Law of 1965. Information on the state law can be found in the DWD CRC Standards and Resource Manual, or the DWD Equal Rights website.

### **PURPOSE**

This document addresses the following model policies and procedures:

1. Informing participants of their civil rights and responsibilities while participating in any program funded through the Division of Economic Support (DES);
2. Informing site supervisors about civil rights and responsibilities while working with Wisconsin Works (W-2) and Food Stamp Employment and Training (FSET) participants;
3. Informing staff of the actions to be taken when participants raise concerns regarding discrimination or illegal harassment while in a work experience site, training program or any component of DES funded programs; and
4. Informing staff of their obligation to maintain a harassment-free relationship with participants.

Information regarding staff employment, civil rights and maintaining a harassment-free local agency environment can be found in the Department of Workforce Development's (DWD) Civil

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Rights Compliance (CRC) Standards and Resource Manual and Division of Economic Support (DES) CRC training materials.

The following policies also apply to all subcontracted agencies of local agencies that receive funding through DES contracts. Local agencies should share this model policy with subcontract agencies. Service delivery civil rights laws also apply to all tribes operating a DES funded program. Employment civil rights laws apply to participants served by a tribe who are employed at a private or public employer who is not a tribal employer.

## **1. INFORMING PARTICIPANTS OF THEIR CIVIL RIGHTS**

The agency must inform all participants of their civil rights by: 1) Providing a copy of the agency equal opportunity policy at the time of application and 2) Providing civil rights information in program orientations or before being placed at a worksite. Participants should be informed verbally and in writing, that DES contractors, and work experience and training sites are under obligation to comply with federal and state civil rights laws regarding anti-discrimination and illegal harassment prevention, and that if they have concerns in this area they should immediately report the concerns to the appropriate local agency contact, who will investigate the allegations immediately, or refer the investigation to the appropriate supervisor, manager, Complaint Coordinator, grievance procedure or agency Equal Opportunity Coordinator.

Participants should also be informed that in cases of sexual assault, they have the right to report to the police, and to receive assistance from the local agency in making that report. Participants should be informed that their complaint will be kept confidential to the extent possible, but that an investigation will require contacts with the alleged harassers and the worksite management. They should also be informed that, at the completion of the investigation, they and the worksite would receive a confidential report of the investigation results and any recommendations.

The DWD model Equal Opportunity policy can be found in the DWD CRC Standards and Resource manual. The Division of Economic Support Internal Operations Memo on Illegal Harassment Prevention and the DES Illegal Harassment Prevention training packet is available by contacting the DES Equal Opportunity Office at 608/267-0927 (Voice/TDD). These materials may be helpful for developing orientation and training materials for participants.

## **2. INFORMING SITE SUPERVISORS OF THEIR CIVIL RIGHTS AND RESPONSIBILITIES**

All site supervisors at agencies receiving funding through DES should be informed by the local agency of their civil rights and responsibilities before they have participants placed on-site. For W-2 and FSET work experience and training sites, these obligations are outlined in the DES Form 10792, Wisconsin Works (W-2) Work Training Site Agreement. If this form is modified by

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the local agency, then the content regarding civil rights obligations must be in the local version of the worksite agreement. Supervisors should be informed that if participants allege violations of civil rights, including discrimination, sexual harassment or other forms of illegal harassment while at their site, the local agency would be obligated to investigate these allegations promptly and take appropriate action depending on the evidence.

### **3. INFORMING STAFF OF THEIR ROLE IN RESOLVING ALLEGATIONS OF CIVIL RIGHTS VIOLATIONS**

All staff, supervisors and managers employed by a local agency which receives funding through DES contracts should attend employment and service delivery civil rights training during their probationary period and receive refresher training when laws change or the need arises, at a minimum every three years. This can be accomplished through attending DWD sponsored training, getting local curriculum approved by the DES Equal Opportunity Office, using the Civil Rights Computer Based Training Course, or using the DES Civil Rights “train the trainer” guide and video.

All staff, supervisors and managers should receive information and be trained on their role when participants allege civil rights violations such as discrimination, sexual harassment or other forms of illegal harassment. Local policy should include the following elements:

- A. Staff should immediately document participant allegations, attempting to get as much information as possible. Model discrimination complaint forms can be found in the DWD CRC Standards and Resource Manual.
- B. Staff should immediately investigate the concerns, or refer the participant to the local agency contact for these types of complaints. Model investigation procedures can be found in the DWD CRC Standards and Resources Manual.
- C. Staff should determine whether the allegations are serious enough to warrant an immediate reassignment of the participant, such as allegations of violence, blatant racial or sexual harassment, or severe hostile work environment. Other alternatives might include offering mediation at the site or training for the site staff.
- D. Determination should also be made regarding referral to legal authorities if warranted. Staff should be informed of the legal definition of sexual assault, and when allegations should be reported to the police.
- E. After the investigation, the participant and worksite should receive a report of findings, recommendations and outcomes, including any further avenues of appeal. Avenues of appeal can be found in the DWD CRC Standards and Resource Manual.
- F. The participant should be offered appropriate resources to work through issues or concerns arising from being involved in situations of discrimination or harassment. Examples of



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appropriate resources might include counseling services, community based organizations serving people from diverse racial/ethnic backgrounds, job coaches, employee assistance or retention specialists who can help provide strategies to participants on how to deal with this type of situation effectively in the workplace.

#### **4. INFORMING STAFF, SUPERVISORS AND MANAGERS OF THEIR OBLIGATION TO MAINTAIN PROFESSIONAL AND HARASSMENT-FREE WORKING RELATIONSHIPS WITH PARTICIPANTS**

During the course of work with participants, situations may arise where conflicts may occur, and participants may perceive that the conflicts are due to discriminatory behavior. If a participant alleges that staff actions are discriminatory, the staff person should attempt to resolve the issue with the participant. Suggested steps include asking the participant if anything has occurred at the agency that has offended them, clarifying the issue, and discussing alternative methods of communication that might have more positive outcomes. If the conflict cannot be resolved, the staff person should inform the participant of the discrimination complaint processes available to them.

Situations may also arise where staff professional relationships turn into personal relationships with participants. Personal relationships may range from activities such as carpooling, sharing daycare, attending social events together, to dating or having sexual relationships. Dating or sexual relationships, may appear to be mutually acceptable or consensual, however staff should keep in mind that they are in a position of power and authority over participants, and what may be perceived as consensual by the staff person may not truly be perceived by the participant as consensual. When consensual relationships do happen, staff should follow local agency policies and procedures, and any applicable ordinances or professional codes of ethics. At a minimum, local agency policies should address when a staff person should report these relationships to their supervisor, and request that the participant be assigned to another staff person. Some staff/participant relationships may not involve a dating or sexual relationship, but involve friendships outside of the workplace. Local agency policies should address under what circumstances friendships outside of the workplace constitute a conflict of interest and warrant supervisory notification and a new designation of a staff person.

For technical assistance in addressing issues of discrimination and harassment, please consult the local agency Equal Opportunity Coordinator, local agency Legal Counsel, and or the DES Equal Opportunity Office at 608/267-0927 (Voice/TDD).